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MM Docket No. 03-____
RM-____

**AMENDMENT TO PENDING
JOINT PETITION FOR RULE MAKING**

1. This Amended Joint Petition (a) adds Smith Television as a co-petitioner; (b) corrects the coordinates specified in the Original Joint Petition for the Frank A. Mengel Broadcast Site (the “F.A.M. Tower Site”) and (c) proposes two special conditions on the parameters of KTUU-DT and KIMO-DT (i) to provide an application-based means, rather than a rule making-based means, for either of these stations to seek in the future to increase their digital

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power, as well as (ii) to provide digital contour protection not based on the initial digital power level authorized in this rule making (15 kW), but rather based on a maximum digital power level of 100 kW in order to assure that each station will have a meaningful opportunity to apply for sufficient increased power in the future if it is required to effectively and reliably cover the unique television market which is Anchorage, Alaska.

2. By this Amended Joint Petition, petitioners respectfully request the Commission: (a) to amend Section 73.622(b) of its rules to (i) substitute DTV Channel 10 for DTV Channel 18 at Anchorage as the paired digital television channel assigned to KTUU-DT; (ii) substitute DTV Channel 8 for DTV Channel 24 at Anchorage as the paired digital television channel assigned to KAKM-DT; and (iii) substitute DTV Channel 12 for DTV Channel 30 at Anchorage as the paired digital television channel assigned to KIMO-DT, and modify petitioners' respective digital construction permits accordingly, and (b) to impose the following special, interim conditions:

“(1) Under the DTV allotments approved herein for KTUU-DT and KIMO-DT, each station will be permitted to seek to increase power above the 15 kilowatts authorized herein from the F.A.M. Tower Site simply upon application for modification of their respective digital authorizations, and neither KTUU-DT nor KIMO-DT shall be required to petition for any type of rule making as a condition to the filing or grant of such application for increased power; provided, that the station seeking to increase digital power demonstrates, through measurements or other appropriate methodology, that its operation at the increased power will not result in more than a 2% increase in interference to the population served by KTVA(TV) and that KTVA(TV) will not in the aggregate receive interference in excess of 10% of its population.

“(2) Notwithstanding the DTV allotments approved herein for KTUU-DT and KIMO-DT at 15 kilowatts of power from the F.A.M. Tower Site, the protected digital contour of each station shall be deemed to be that contour generated by each station at 100 kW of power from the F.A.M. Tower Site and neither station shall be under any present or future requirement to increase its facilities above 15 kilowatts in order to preserve such protection until one calendar year after KTVA(TV) has ceased operating in the NTSC mode on Channel 11.”

3. Petitioners note that the coordinates used in the Original Joint Petition for the F.A.M. Tower Site, which the petitioners will use for their digital operations, are actually 61-25-

22 North Longitude and 149-52-20 West Latitude.^{1/} The coordinates were, however, correctly specified in the engineering statements attached to the Original Joint Petition.

4. The existing digital construction permit for KIMO-DT currently specifies the F.A.M. Tower Site at Mile 2.0 Pt. MacKenzie Access Road, near Knik, Alaska at coordinates 61-25-22 North Longitude and 149-52-20 West Latitude as the transmitter site for the station. Smith Television is a co-owner of this site, along with Channel 2 Broadcasting and Alaska Public Telecom, and the site is the currently licensed transmitter site for their NTSC stations, KTUU-TV, KAKM(TV), and KIMO(TV), respectively.

5. As demonstrated by (i) the attached revised Engineering Statement for KTUU-DT, (ii) the original Engineering Statement currently on file for KAKM-DT, and (iii) the attached Engineering Statement for KIMO-DT, DTV Channel 10 can be allotted to KTUU-TV, DTV Channel 8 can be allotted to KAKM(TV), and DTV Channel 12 can be allotted to KIMO(TV) for digital television, each in full compliance with all applicable coverage and allocation criteria.^{2/} Specifically, the proposed, albeit conditioned, allotment of the respective DTV Channels will permit each station to cover the entire community of Anchorage with the requisite 43 dBu signal strength and will not increase interference to more than an additional 2% of the population served by any other analog or digital television station with the specifications set forth in the Engineering Statements.

^{1/} The Joint Petition mistakenly specified 61-11-33 North Longitude and 149-54-01 West Latitude, the coordinates authorized in the outstanding KTUU-DT and KAKM-DT construction permits, as the coordinates for the F.A.M. site.

^{2/} The Engineering Statements will also be used to support any future applications for modification of digital facilities already approved by the Commission, which will be filed after favorable action on any Notice of Proposed Rule Making that may be issued as a result of this Amended Joint Petition.

6. In order to protect KTVA(TV), NTSC Channel 11 under the Commission's *de minimis* interference requirement, while at the same time preserving the ability of KTUU-DT and KIMO-DT to serve the residents of Anchorage with adequate digital signals, Channel 2 Broadcasting and Smith Television are proposing that the Commission impose two interim allotment conditions, one on operations in the near-term and the other on longer-term operations. First, petitioners propose that the Commission authorize KTUU-DT and KIMO-DT to initially operate on DTV Channels 10 and 12, respectively, at an effective radiated power of 15 kilowatts from the F.A.M. Tower Site but to permit each of them in the future to seek, through the application process rather than through the rule making process, to increase power above 15 kilowatts if such station(s) can demonstrate, through measurements or other appropriate methodology, that operation of its station at the increased power will not result in more than a 2% increase in interference to the population served by KTVA(TV) and that KTVA(TV) will not in the aggregate receive interference in excess of 10% of its population. Second, petitioners propose that the Commission afford each station digital contour protection not based on the initial digital power level authorized in this rule making (15 kW), but rather based on a maximum digital power level of 100 kW in order to assure that each station will have a meaningful opportunity to apply for sufficient increased power in the future if it is required to effectively and reliably cover the unique television market which is Anchorage, Alaska.

7. While petitioners are committed to commencing digital broadcasts as expeditiously as possible, they are, and have been throughout this proceeding, very concerned regarding issues of coverage and signal penetration. Petitioners are all members of the Anchorage Broadcast Television Consortium (the "Consortium"), which includes the six NTSC VHF commercial and noncommercial television broadcast stations licensed to serve the Anchorage television market. As the Commission is aware, Anchorage's unique and difficult

geography, consisting of a vast geographic area and extremely rugged topography, has posed many hurdles to the implementation of digital service by the Anchorage licensees. With the failure of the Consortium's earlier plans to collocate its members' digital facilities, petitioners now seek to commence digital operations from their existing commonly owned site. However, given the F.A.M. Tower Site's location 12 miles north of Anchorage as well as the height of the existing tower, petitioners have determined that digital operation from the F.A.M. Tower Site on their authorized UHF channels will simply not provide the necessary effective and reliable digital coverage of Anchorage and certainly not of the full Anchorage "television market" given its uniquely challenging terrain. Indeed the Commission is well aware of the uniqueness of the Anchorage television market. *See Wrangell Radio Group*, 75 FCC 2d, ¶ 9 (1980) (noting that "Alaska's unique terrain, its remoteness and isolation, justify special treatment regarding its television situation"), *David E. Hilliard, Esquire*, 55 RR 2d 1005 (1984) (stating "We are cognizant of the significant broadcast related problems faced by the State of Alaska resulting from its unique demographic and geographic characteristics. In consideration thereof we have historically treated Alaska in a special manner and we intend to do so in the future."). While operation by Channel 2 Broadcasting and Smith Television on the requested VHF channels, even at the severely reduced power of 15 kilowatts, increases the likelihood of effective and reliable digital coverage of Anchorage, that is not assured, and serious questions remain about effective and reliable coverage of the full Anchorage market at only 15 kilowatts. For this reason, the stations must retain the flexibility to return to the Commission to seek appropriate increases in power. Accordingly, petitioners seek, through their request for imposition of these conditions, to preserve the opportunity for KTUU-DT and KIMO-DT to increase power to more appropriate power levels if the Commission otherwise finds that the public interest will be served thereby.

8. Channel 2 Broadcasting and Smith Television believe that this proposal balances appropriately (a) the need to protect KTVA(TV)'s current NTSC operations, (b) the need to protect KTVA(TV)'s future DTV operations, whether finally conducted on Channel 28 which has been allotted to the station, or on Channel 11 which is the station's NTSC channel, and (c) the need to insure that the digital operations and signal coverage of KTUU-DT and KIMO-DT remain efficient, fully adequate and consistently reliable for the residents of Anchorage, the surrounding service area and the full Anchorage television market. As the Commission has recognized throughout the DTV proceeding, "the implementation of DTV will be a dynamic process and . . . mechanisms would be needed to accommodate changes that will occur."

Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, 13 FCC Rcd 7418, ¶ 303 (1998). In this same proceeding, the Commission also noted, "[t]hroughout this proceeding, we have stated that we intend to provide broadcasters with the flexibility to develop alternative allotment approaches and plans. We specifically stated that we would consider alternative allotment/assignment plans that are the result of negotiations and coordination among broadcasters and other parties within their communities." *Id.* at ¶ 187 (footnote omitted). Petitioners' proposal is entirely consistent with these statements. *See also id.* at ¶ 84 (noting that "[i]n certain instances, grants for increased power may be conditioned on validation of performance through field measurements of actual station operation . . .").

9. Petitioners note that grant of the Amended Joint Petition will allow them to add an additional member of the Consortium to the instant plan to collocate facilities in order to reduce individual costs and to aid in the prompt implementation of a comprehensive plan to provide DTV service to the Anchorage market. This additional Consortium member is a co-owner of the F.A.M. Tower Site, from which it currently operates its analog facilities along with the other


petitioners. Thus, it will be much more financially efficient for petitioners to collocate at their owned, analog site than to attempt individually to locate and obtain permission to use disparate sites elsewhere. Accordingly, petitioners reiterate the request made in the Original Joint Petition that the Commission act expeditiously to grant their proposal. None of the petitioners is presently aware of any objections to this Amended Joint Petition and the modified proposals contained herein.

10. Should the Commission allot the channels requested in this Amended Joint Petition on the conditions proposed herein, each petitioner will promptly apply for modification, consistent with this proposal, of its respective DTV construction permit and undertake to build and operate its DTV station if its modification is granted.

For the foregoing reasons, petitioners respectfully request that the Commission promptly initiate the rule making requested in this Amended Joint Petition by adopting a Notice of Proposed Rule Making which proposes (a) to substitute (i) DTV Channel 10 for DTV Channel 18 at Anchorage as the digital television channel assigned to KTUU-DT, (ii) DTV Channel 8 for DTV Channel 24 at Anchorage as the digital television channel assigned to KAKM-DT, and (iii) DTV Channel 12 for DTV Channel 30 at Anchorage as the digital television channel assigned to KIMO-DT, and modify petitioners' respective digital construction permits accordingly, and (b) to impose the two special conditions specified in Paragraph 2, above, on the allotments for KTUU-DT and KIMO-DT.

Respectfully submitted,

Channel 2 Broadcasting Company
Alaska Public Telecommunications, Inc.
Smith Television License Holdings, Inc.

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Dated: July 24, 2003



ENGINEERING STATEMENT
OF
John F.X. Browne, P.E.
IN SUPPORT OF
PETITION FOR RULE MAKING
TO AMEND THE DTV TABLE OF ALLOTMENTS
Anchorage, Alaska

Channel 2 Broadcasting Company (CH2) is the licensee of commercial television broadcast station KTUU-TV, Channel 2 in Anchorage, Alaska.

In its Sixth Report and Order in the Advanced Television (DTV) Proceeding, the Commission made the following DTV allotment:

KTUU-TV Anchorage Channel 18

CH2 has received an FCC construction permit for this facility specifying a maximum ERP of 50 kW and an HAAT of 42 meters using an omni-directional antenna at the following coordinates:

61-11-33 N
149-54-01 W

CH2 is investigating the possibility of joining with other VHF broadcasters to utilize a common tower and antenna. If the DTV channel allotment specified a VHF channel, CH2. could utilize the same (existing) antenna for its DTV station that is used by other VHF broadcasters in the market in an economical fashion, while maintaining the VHF-based service to which its viewers have become accustomed.



Interference Studies

Engineering studies were undertaken to determine if Channel 10 could be used while meeting all de minimis interference requirements. An ERP of 15 kW was used with an omni-directional antenna at an HAAT of 240 meters. The coordinates that were used are those of KAKM-TV:

61-25-22 N
149-52-20 W

The studies indicate that at the location, ERP and HAAT specified, Channel 10 would meet the de minimis interference requirements specified in the Commission's rules and OET-69.

Canada

The proposed reference site is more than 400 km from the Canada - US border and, therefore, is exempt from further consideration under the LOU.

Coverage

Operation at the proposed parameters will provide a predicted signal in excess of 43 dBu over the entire city of Anchorage.

Conclusion

It is concluded that the proposed change can be made in accordance with Section 73.623 (c) and therefore, it is requested that Section 73.622(b) be amended as follows:

	<u>Present</u>	<u>Proposed</u> ^{1/}
:		
:		
Alaska		
:		
:		
Anchorage	18,20,22,*24,*26, 28	10,^{2/} 20,22,*24,*26, 28
:	30,32	30,32
:		

^{1/} Two other stations which share the KTUU-TV site may also file simultaneously for changes in their respective DTV allotments. Those changes are not reflected herein.

^{2/} The precise pilot carrier frequency provisions of Section 73.622(g) appear to apply, requiring designation "c".



The proposed changes can be made with the following specified parameters:

DTV Channel 10- Anchorage

Max ERP	15 kW, Omni-directional
HAAT	240 meters
Site	61-25-22 N
	149-52-20 W

Certification

I hereby certify that the foregoing report or statement was prepared by me but may include work performed by others under my supervision or direction. The statements of fact contained therein are believed to be true and correct based on personal knowledge, information and belief unless otherwise stated; with respect to facts not known of my own personal knowledge, I believe them to be true and correct based on their origin from sources known to me to be generally reliable and accurate. I have prepared this document with due care and in accordance with applicable standards of professional practice.

John F.X. Browne, P.E.
July 24, 2003



ENGINEERING STATEMENT
OF
John F.X. Browne, P.E.
IN SUPPORT OF
PETITION FOR RULE MAKING
TO AMEND THE DTV TABLE OF ALLOTMENTS
Anchorage, Alaska

Smith Television License Holdings, Inc. (Smith) is the licensee of commercial television broadcast station KIMO-TV, Channel 13 in Anchorage, Alaska.

In its Sixth Report and Order in the Advanced Television (DTV) Proceeding, the Commission made the following DTV allotment:

KIMO-DT Anchorage Channel 30

Smith has received an FCC construction permit for this facility specifying a maximum ERP of 108 kW, and an HAAT of 155 meters using a directional antenna at the following coordinates:

61-25-22 N
149-52-20 W

If the DTV channel allotment specified a VHF channel, Smith could utilize the same (existing) antenna for both its NTSC and DTV stations in an economical fashion while maintaining the VHF-based service to which its viewers have become accustomed. It is also investigating the possibility of joining with other VHF broadcasters to utilize the same tower and antenna.



Interference Studies

Engineering studies were undertaken to determine if Channel 12 could be used while meeting all de minimis interference requirements. An ERP of 15 kW was used with an omni-directional antenna at an HAAT of 240 meters. The coordinates that were used are those of KAKM-TV:

61-25-22 N
149-52-20 W

The studies indicate that at the location, ERP and HAAT specified, Channel 12 would meet the de minimis interference requirements specified in the Commission's rules and OET-69.

Canada

The proposed reference site is more than 400 km from the Canada – US border and, therefore, is exempt from further consideration under the LOU.

Coverage

Operation at the proposed parameters will provide a predicted signal in excess of 43 dBu over the entire city of Anchorage.

Conclusion

It is concluded that the proposed change can be made in accordance with Section 73.623(c) and therefore , it is requested that the Section 73.622(b) be amended as follows:

	<u>Present</u>	<u>Proposed</u> ^{1/}
:		
:		
Alaska		
:		
:		
Anchorage	18,20,22,*24,*26, 28	12, ^{2/} 18,20,22,*24,*26
:	30,32	28,32
:		

^{1/} Two other stations which share the KIMO-TV site may also file simultaneously for changes in their respective DTV allotments. Those changes are not reflected herein.

^{2/} The precise pilot carrier frequency provisions of Section 73.622(g) appear to apply, requiring designation "c".



The proposed changes can be made with the following specified parameters:

DTV Channel 12 – Anchorage

Max ERP	15 kW, Omni
HAAT	240 meters
Site	61-25-22 N
	149-52-20 W

Certification

I hereby certify that the foregoing report or statement was prepared by me but may include work performed by others under my supervision or direction. The statements of fact contained therein are believed to be true and correct based on personal knowledge, information and belief unless otherwise stated; with respect to facts not known of my own personal knowledge, I believe them to be true and correct based on their origin from sources known to me to be generally reliable and accurate. I have prepared this document with due care and in accordance with applicable standards of professional practice.

John F.X. Browne, P.E.
July 24, 2003